S.B.Civil Writ Petition No.6954/2006

Bhartiya Kisan Sangh.

vs.

State of Raj. and others.

Date : 19.7.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.LD Khatri, for the petitioner.
Mrs.RR Kanwar, Addl.GA, for the respondents.

- - - - -

Heard learned counsel for the parties.

The short point involved in this writ petition is in relation to making available the irrigation facilities to the agriculturists of the land which according to the petitioner is command land.

The petitioner's contention is that despite the fact that the petitioner obtained command land from the State, still the respondents are not providing irrigation to the land of the members of the petitioner. The contention of the petitioner is that the petitioner's case was recommended several times and there were some oral assurances on the basis of which

temporary moghas were constructed. It is submitted that the petitioner's grievance is not being redressed by the State for a long period despite the fact that the petitioner purchased the land by paying five times more the cost of the land to unirrigated/uncommand land.

The respondents though raised preliminary objection about maintainability of writ petition but looking to the controversy, this Court is not inclined to deny the relief to the petitioner of consideration of their grievance by the State Government because of the simple reason that interest of not only agriculturists but also of State is involved as if the irrigation facilities are required to be provided, then it must be provided to the poor agriculturists without hurdles of technicalities of law as it enhances the national growth in agriculture produce.

As per the stand taken by the respondents in the reply, irrigation facility can be provided by the State as per the availability of water and as per the scheme which may be framed by the technically equipped persons and for that purpose, there is chance of taking some time. It is submitted that since the pucca khala has not been constructed, therefore, the irrigation facility cannot be made available to the members of the petitioner sangh.

It appears from the pleadings and the documents placed on record as well as reply, that so far as irrigation facility to the command land is concerned, for that there appears to be no serious objection except that the irrigation facility can be provided in command area in accordance with the availability of water and as per the scheme which can be framed by the technical persons. So far as the construction of the pucca khala is concerned, that is also a decision to be taken by the State. The decision cannot be withheld for a long period and if the cultivators are asking irrigation facility to command land, they are within their right and the State Government may expeditiously take a decision about providing irrigation facility to the cultivators may it by expeditiously constructing pucca khala as per the availability of their funds etc. and feasibility.

In view of the above, the present writ petition is disposed of with a direction to the respondents to take a decision about providing the irrigation facility to the cultivators of the petitioner sangh within a reasonable period and if the Government decides to construct a pucca khala, they may construct the same without any further delay and convey the decision to the petitioner. In case, the State Government decides

not to construct the pucca khala, then that decision may be communicated to the petitioner within a period of three months from today.

(PRAKASH TATIA), J.

S.Phophaliya